

**TOWN OF VASS
BOARD OF COMMISSIONERS
REGULAR MEETING
October 8, 2018**

The Regular Meeting was called to order by Mayor Callahan at 6:07 p.m. Commissioners in attendance were: Blackwell, Kosem, Callahan, and Kellis. Commissioner Mosley arrived after adoption of the Agenda and Consent Agenda. Planner Kathy Liles and Attorney TC Morphis were also present.

Approval of Agenda and Consent Agenda

Mayor Callahan asked for additions or changes to the agenda. motion to approve the agenda and consent agenda. Commissioner Blackwell. Mayor Callahan moved Item K before item F and Attorney Morphis requested to add Personnel matters to the Closed Session. Mayor Callahan asked for a motion to approve the agenda and consent agenda. Commissioner Blackwell made a motion to approve the agenda and consent agenda with additions. All were in favor.

Consent Agenda

Items approved by above motion were:

1. Minutes of September 10, 2018 Regular Board Meeting
2. Minutes of September 20, 2018 Public Meeting
3. Minutes of September 24, 2018 Public Hearing Pygmy Goats
4. Minutes of September 24, 2018 Public Hearing CBDG Grant
5. Budget Transfers for September 2018
6. Financial Report for September 2018

Police Report for September 2018

- Chief Blakeley asked Jason from Central Security to address explain to the board the status of the camera system, Jason spoke about lightening damage done to the license plate camera in the park over the summer. Cameras are situated at the bathroom building, picnic shelter and a post by the entrance. He said the damage to the license plate cameras was not the town's fault. Original installation included trenching a wire 100ft away from the building to the license plate camera. Jason originally thought the problems with the camera was lightning damage. He tested the wires and found that half of the wires were damaged in addition to the camera. He then sent the camera to the manufacturer (Speako technologies) who confirmed the camera was not operational and not passing video. Acts of God are not part of the warranty. The manufacturer could not determine if the camera was damaged due to water or lightening. Jason thought the problem was due to water and replaced the post and junction box. At this point he did not expect to find a short in the wire connecting the camera to the system. His options are to add wire in conduit for future needs with an outlet by the pole. Jason proposed the town replace the wire and stated he would meet the town halfway on the cost if Andy Layton could set and outlet by the camera. Jason would add a nanobeam to transmit video wirelessly. A backup solution would be to relocate the camera to the actual building at the apex of the roof, so it is grounded. Commissioner Kellis asked the cost of the wire. Jason recommended trenching the wire at \$6.00 a foot to include the conduit. He said he would cover the difference in the cost between Cat 5 and Romex. He does not have control over the

cost of the subcontractor. Options are to spend \$600 to replace the current wire with Romex plus other equipment at no cost to the town; or \$400 to replace the wire only. The third solution is to splice the wire, which would not be covered under warranty. Chief Blakeley said he does not want the camera on the building, the current position works for the police department. A second camera is to be installed over the bathroom. Commissioner Kellis made a motion to retrench the wire with Romex at \$6.00 per sq. foot and conduit (cost to be met halfway with Central Security). All were in favor.

- CSX Railroad marked the railroad indicating the areas that the town would be allowed to clear. Anything on top of the road along the guard rail will not be an issue. CSX would have to have a flagman out if there would be any cutting of a tree within 25 ft of the center of the rail line.
- Telephone poles in the yard along South Street are being removed.
- Chief Blakeley read an email from Kaci Caddell owner of Crossroads Coffee Shop expressing her support for the Vass Police Department.
- Kevin Cagle asked to speak. As a double business owner in town he also thanked the police department for patrolling his businesses.

Public Comments

Martin Larsen: Spoke on behalf of John Hart who owns the skilled gaming business at 140 Seaboard Street. Mr. Larsen stated he works behind the scenes. He said he tried to get proper paperwork from the town and was told the town did not know what to do with his type of business. He had his attorney Art Blue step in to help him out. Since that time, he said Chief Blakeley came by and stereotyped his business, told him the town did not want his type of people here and asked him if he had ever been to a town that he was not going to be allowed in. Mr. Larsen said he is trying to do what is right. Chief Blakeley stated he wanted to interrupt Mr. Larsen because what he said was an absolute lie. The two exchanged words and Mr. Larsen continued his statement. He has a contractor and engineer working on issues that were noted by Moore County in their report. He is still looking for a special use permit from the Town of Vass. Mr. Larsen said he is a resident of Vass and has been one for many years. He is asking the Board of Commissioners to help his business get approved by the town.

Commissioner Kosem stated the business is in the wrong zoning district. Mr. Larsen replied the town ordinances are not clear when it comes to the type of business, he has which is why his attorney got involved. According to his attorney, the type of business he has requires a special use permit. If not, the owner of the building, Johnny Perhealth, is willing to ask for a rezoning. They are willing to fix the problems but don't feel like they are getting any help from the town.

Mayor Callahan asked Kathy Liles to speak. Kathy stated gaming is described in the ordinance differently along with specific regulations that apply to gaming. The number of machines and criteria that must be met are outlined in the ordinance. This business opened without obtaining proper permits and wish to continue while operating under a notice of violation that states the business is not allowed in the location. It is not the roll of the board of commissioners to render a decision to violate the ordinance. The commissioners have a role in establishing the standards and changing the ordinance if appropriate, however they are not the board to handle the concerns expressed by Mr. Larsen. the specific uses allowed in the district, and that the town cannot issue a permit for an illegal use. The appropriate actions are defined in the Notice of Violation, which has been provided to

Attorney Blue. Mr. Larsen stated he can not fix the problems if the town does not help him obtain the requested permit. Ms. Liles explained the point she was trying to make is that the town can not issue a permit for an illegal use in a district where it is not allowed. Mr. Larsen asked, if the building owner is willing to change the zoning, then he should be able to rent to Mr. Larsen and Mr. Hunt. Mayor Callahan state Rezoning is not up to the property owner. Mr. Larsen said he has been told there is no way to rezone. Mr. Larsen said he has been trying to get this business opened since June and has not gotten any correspondence from the town. He feels the town is stereotyping his business, so he opened his doors and would see what happened afterwards. He talked about other cases that have been heard in the state on this matter.

Attorney Morphis stated there are criminal statutes that are regulated by the state and the local zoning ordinance which the board of commissioners has control over and then there are building codes that are controlled by the county. There are separate notices of violation that have been issued. The only thing the town handles is the zoning. We have taken the position that this business is not in compliance with the zoning. He told Mr. Larsen "you don't open a business without getting the appropriate permit". If he believes the permit should have been granted and town staff wrongfully denied it there is a process where they can appeal to the Board of Adjustment. If they feel there needs to be a rezoning they can come to the Board. Respectfully, he feels the Board of Commissioners have heard enough and this matter is not something that gets decided in a board meeting. The matter is currently at the staff level, county level, code enforcement or Board of Adjustment matter. The Board of Commissioners cannot make any decisions or promises about this business to the owners.

Mr. Larsen stated he wanted to let the board know what was going on. His attorney will continue to work on the matter.

Chief Blakeley asked to clarify what happened. The business came to the town. He didn't know anything about a permit. They stopped by to talk to Mr. Larsen about his machines, and his understanding was there were fishing machines in the building. He was told there were no fishing machines and informed them they needed to talk to Mabel Walden. Mr. Larsen replied he already spoke to the town. He stopped by a second time to make sure Mr. Larsen had a discussion with the Town Administrator. At that point, Mr. Larsen said he spoke to the town, and Chief Blakeley wished him the best of luck and shook his hand and has not seen him since. The machines Mr. Larsen has are in the gray area of the law and are not being enforced at this time. Mr. Larsen feels his business is bringing additional business and revenue to the town.

Kathy Liles stated they have two processes available and her recommendation is for Mr. Larsen to follow them.

Angela Vacek: thanked Chief Blakeley, Officer Miller and Officer Ballard for their assistance with recent 911 calls and safety patrols.

Ms. Vacek asked the board of commissioners for permission to hold a Harvest Festival on October 26, 2019 on Seaboard Street. She stated she would pay for the festival out of her personal funds. She said she has support from local businesses, schools, vendors and the fire department. Mayor Callahan asked her to submit a plan and suggested the matter be held over for discussion in the future.

Old Business:

Zoning Violation Update

Mabel Walden explained if the skilled gaming parties want to proceed with an appeal to the Notice of Violation issued on October 1, 2018, she would need to either contact the former member of the Board of Adjustment whose terms have expired or reach out to seek new members. Mayor Callahan stated he would be willing to serve another term and asked for a motion to give the Town Clerk permission to contact the previous members or to seek new members if necessary. Motion was made by Commissioner Kosem. All were in favor.

New Business:

Union Place Drainage

Commissioners Kosem stated there is a problem with water run off on both sides of the Union Place subdivision. He asked the residents to speak first then the contractors would follow.

The following Residents from the Union Place Subdivision requested permission to come before the board to discuss drainage issues:

Michael Miller – 230 Winder Way
 William Gwin (Mike) – 75 Bynum Court
 Matt Gerrick – 70 Bynum Court
 Angela Clough – 90 Bynum Court

PJ Gay and Ron were present from Caviness Land Development along with Brad Butler from Wayside Landscapes and supply.

Photos of the subdivision during Hurricane Florence were emailed to Commissioner Moseley and shared with all commissioners.

Michael Miller: Most of his neighbors have issues with drainage. The problems occur during normal rains, hits the driveways and streets and filters down into the yards in the low-lying areas. Mr. Miller asked the town if they would install curb and gutter in the low-lying areas. There is drainage in the yards, but it is overwhelmed by the amount of rushing water off the street and driveways. Kathy Liles asked for examples of what types of rainfalls trigger the problems. Mr. Miller responded the problem happens during normal/heavy/continuous rains of three to four days in a row.

Commissioner Kosem said the houses were built below grade and it looks like the water shoots down the driveways and does not make it to the drains. PJ Gay, Caviness Land Development stated they have worked very hard with the residents. Water is going to travel down hill and the water is going over the entire yard, not just the driveways.

William Gwynn: There are several homes on both sides. He lives on Bynum. There are two houses that sit at the low end of the cul-de-sac where all the water runs down from the roofs, streets and now from the new homes on Union Church Road. Caviness Land Development has made serious effort and attempts to address issues. Rains with accumulation of a half inch to three inches over a course of thirty to forty-five minutes, they see so much rain gushing down. Much of what has been done is to drive the rain into the easement that splits his property and his neighbors. The easement on Bynum is almost completely filled with sand from Hurricane Florence with nowhere for the water to go. His understanding was the easement would be turned over to the town for maintenance purposes. The original specs for the land show the twenty-foot easement for public use, with 10 feet on his property line and 10 feet on his neighbor's property line. He feels the water is not directed properly and the drainage is poor. The easement does not carry further than the tree line and there is not a water

collection point at the end. He and his neighbors addressed their issues with Caviness Lane Development and Wayside Landscapes and it is still an issue. Their intent with coming before the board of commissioners was to make the town aware before the easement gets dedicated. He has had engineers and planners come out to look at the property and they have stated the issues need to be addressed.

Matt Gerrick: Drainage runs down the low-lying area then cuts across to Mr. Gwinn's yard across the street. Now that the drainage on Mr. Gwinn's end has filled up with silt and sand it is causing a backup towards his property. He is seeing chunks of his law erode down into it. He feels his land will continue to erode and cause a sinkhole in the road.

Angela Clough: Her warranty ran out in February 2018. She experienced winter kill on the left side of her yard from last winter's snow storm. She has a constant puddle of water in that section. The back-right corner of her backyard runs into her neighbors' yard then into the woods. She said her yard is eroding her neighbor's yard. She had her yard regraded higher around the storm water drain which has helped with the runoff. The storm water drain still floods the entire left section. During Hurricane Florence she got 14.5 inches of rain in three days and took two and a half weeks to drain in her yard. Water pools near her utility box and water meter. Ms. Clough said water was bubbling up in the yard at 85 Bynum during the hurricane. She believes the neighborhood has an issue.

Mr. Gwinn stated his understanding is that lots 11 & 12 were the original water collection areas and these lots are where the water is traveling to now. The drainage is attempting to do the work but does not cover the amount of water flow that comes down the street.

Commissioner Kellis asked if the area was trenched would the water recede to the flood plains. Kathy Liles answered the problem is with capacity. Kathy said before you can discharge to wetlands or waters of the state you need to make sure you meet certain pretreatment standards. She said the problems sound like there is an issue with the capacity of the conveyance. Commissioner Kellis asked if the size of the pipe needed to be increased. Mr. Gwinn said the easement is filled with sod and sediment.

Commissioner Kosem suggested having Ron Atkinson look at the easement and let the town know what he thinks.

Kathy Liles stated the original project review was in 2013. She advised the town to check the date road maintenance was accepted by the town. The town will also need to look at the scope of what was to be managed.

Commissioner Kosem said water runs down the road and feels the contractors need to fix this problem. PJ Gay stated the houses were built according to the land that was already there. Water has not entered any of the house from the hurricane.

Commissioner Mosley asked to hear from the contractors before tabling the discussion. Brad Butler, landscaper stated the contractors built the way the developer designed the neighborhood. The drainage was also installed the way the developer designed it. Caviness is the builder. He feels the drainage is on the developer because they developed the neighborhood. He has been paid by Caviness to do excess stuff to help with the drainage issues. Commissioner Mosley asked the contractors and landscaper their opinion on fixing the problem and if it is a developer, contractor or town problem. PJ and Brad declined to answer on the basis that they are not experts in that area.

Kathy Liles stated neighborhoods are not designed for catastrophic events nor does anybody design for this type of event. She said she understands the problems the owners are having, and the town does need to understand the scope of their problems and when they are experiencing them. Mr. Gwinn said the problems they are addressing are not solely associated with Hurricane Florence, and has tried to work with the developer, Wolf Ram. He does not know what his next recourse is as a homeowner with regards to the development of his home.

Ron Atkinson asked who designed the development. Kathy Liles responded S&S Engineering. Ron stated there appears to be a real problem. In his opinion an engineer and flow study are needed to figure out where the problem is coming from. There appears to be too much volume for the size of the swails. Commissioner Kellis made a motion to hire an engineer. Attorney Morphis state suggested the Board of Commissioners adopt a Mini Brooks Resolution at the next meeting to hire an engineer. Mini Brooks Resolution exempts the board from going through the bidding process to hire an engineer. As long as the work the engineer does is less than \$50,000 the board can adopt the resolution.

Commissioner Kellis made a motion to table this conversation until after review by an engineer. The motion was carried unanimously.

Timmons Group - Main Street Subdivision

The Planning Board reviewed and recommended the proposed preliminary plat to the Board of Commissioners. Joel Smith from the Timmons Group was present to discuss the preliminary plat for proposed Main Street Subdivision. Base on recommendation from Town of Vass staff they will use 6" internal water lines. Kathy Liles stated they will have to have permanent wet ponds. Comments from the Fire Marshal and Fire Chief have not been received. Since this is a cluster home development there will be smaller lots sizes, the HOA will take care of the open space, sidewalks on one side of the street, standard setbacks, DOT design standards have been met. Kathy Liles suggested; if the Commissioners were comfortable with the design subject to Fire Department and Fire Marshal approvals, they could issue an approval. Commissioner Mosley asked if the HOA would have fence regulations or follow town standards. Kathy Liles replied the HOA could control what the fences look like and be more restrictive. Mr. Smith stated according to HOA bylaws homeowners would have to get approval for appearance and style. Bylaws and Declarations would need to be adopted when the final plat is recorded. Attorney Morphis pointed out the town cannot regulate the exterior appearance of single-family homes. Mayor Callahan asked for a motion to approve the design plat subject to approval by the Fire Marshal and Fire Chief. Commissioner Mosley made a motion to approve. The motion was carried unanimously.

VTC Canine Sports Medicine

Janice Baker the owner of VTC Canine Sports Medicine filed a Petition for Conditional Use for property located at 4693 Union Church Road. On October 1, 2018 the Planning Board recommended her preliminary plan for approval by the Board of Commissioners. The Board of Commissioners set a public hearing date for October 29, 2018 at 6:00 p.m.

James Cornprobst

Mr. Cornprobst was not present to outline his proposed plans for property located on Rollins Road. Commissioner Blackwell made a motion to table this matter until November. All were in favor

Write-off prior year real property and motor vehicle taxes over 10 years old

Town Clerk brought before the Board the outstanding property and motor vehicle taxes for the 2007 fiscal year for a total of \$520.85. She asked that these taxes be written off the Town's receivables, but they would remain collectable through the County. Mayor Callahan asked for a motion for taxes to be written off. Commissioner Kosem made a motion. All were in favor.

7:00 p.m. Mayor Callahan called for a brief minute recess. Meeting resumed at 7:05 p.m.

Budget Amendments

The Finance Officer presented Budget Amendment #6, Ordinance to recognize the expense for purchase of two generators for the Town hall and other necessary items purchased due to emergencies such as hurricane Florence. Kathy Liles advised the board to coordinate with Moore County Public Safety should they ever want to use the town hall as an emergency shelter. Mayor Callahan has scheduled a meeting with Bryan Phillips for some time in the near future. Mayor Callahan asked for a motion to approve the budget amendment. Motion to approve made by Commissioner Blackwell. The motion was carried unanimously.

Additional Item: CDBG Resolution - Mayor Callahan read the following Resolution:

**RESOLUTION OF THE TOWN OF VASS BOARD OF COMMISSIONERS FOR
APPLICATION FOR NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL
QUALITY (DEQ)
COMMUNITY DEVELOPMENT BLOCK GRANT – INFRASTRUCTURE (CDBG-I)**

WHEREAS, Title I of the Federal Housing and Community Development Act of 1974, as amended, has established the U.S. Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program, and has authorized the making of grants to aid eligible units of government in funding the cost of construction, replacement, or rehabilitation of water and wastewater infrastructure, and that the North Carolina Department of Environmental Quality (NCDEQ) Division of Water Infrastructure (DWI) was delegated the authority by the state legislature to administer the water and wastewater infrastructure portion of the state grant monies received from the U.S. HUD CDBG program by Session Law 2013-360, Section 15.15(a) as amended by Section 5.3 of Session Law 2013-363, and

WHEREAS, The Town of Vass has need for and intends to construct a wastewater collection system project described as **Sanitary Sewer Service Hookup project**, and

WHEREAS, The Town of Vass intends to request state grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE TOWN BOARD OF THE TOWN OF VASS:

That the Town of Vass, the **Applicant**, will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Henry E. Callahan, Mayor, and Mabel Walden, Town Administrator/Clerk, the **Authorized Officials**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a grant to aid in the construction of the project described above.

That the **Authorized Officials**, and successors so titled, are hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Mayor Callahan asked for a motion to adopt the Resolution of the Town of Vass board of commissioners for application for North Carolina Department of Environmental Quality (DEQ) Community development block grant – infrastructure (CDBG-I). Commissioner Kosem made a motion to adopt the Resolution. The motion was carried unanimously.

Discussion Topics:

WIFI in Public Works Building

Commissioner Kosem asked the board to consider WIFI in the public works building on Seaboard Street. WIFI would allow the public works department to utilize the computer in the building to order materials and to operate a future security system. Motion to get quotes for WIFI and security camera made by Commissioner Kellis. All were in favor.

Moore County Transportation Committee (MCTC)

The Moore County Transportation Committee needs a regular member and an alternate from each jurisdiction to make sure the towns are represented when countywide transportation issues are being discussed. Mayor Callahan is the primary representative and Commissioner Kellis is the alternate. Due to his work schedule Mayor Callahan is unable to attend the meetings. The Board of Commissioners is required to appointment new primary member. Commissioner Mosley made a motion to appoint Commissioner Matthew Callahan. All were in favor.

Moore County Mosquito Abatement

Mayor Callahan read a press release from Moore County Health Department explaining how the county planned to utilize funds distributed for mosquito control. Further information regarding this matter is available on the Moore County Health Department website:
<http://www.moorecountync.gov/health/>.

Hurricane Florence Relief Music Festival in Sandy Ramey Keith Park

Mayor Callahan and the Town Clerk were contacted about a group that was interested in using Sandy Ramey Keith Park for a concert to raise funds for hurricane victims. No one was present to discuss this request; therefore, Commissioner Mosley made a motion to table this matter. All were in favor.

Closed Session – Attorney Client Privilege and Personnel Matters


Mayor Callahan asked for a motion to enter closed session at 7:47 p.m.

Adjournment

Mayor Callahan asked for a motion to adjourn. Commissioner Mosley made a motion to adjourn the meeting at 8:02 p.m. The motion carried unanimously.

TOWN OF VASS


Henry E. Callahan, Mayor

ATTEST: 
Mabel A. Walden, Town Clerk